



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
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LAURIE BURT  
Commissioner

November 20, 2007

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In the Matter of Bob Jerrier  
a/k/a Jerrier Builders

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Docket No. 2007- 147  
DEP File Nos. SE 192-473  
Lakeville

**RECOMMEND FINAL DECISION**

This matter arises from the issuance of an amended Superseding Order of Conditions dated August 21, 2007 by the Southeast Regional Office of the Department of Environmental Protection (the "Department") relating to an existing Superseding Order of Conditions with respect to certain property off of Crooked Lane in Lakeville, Massachusetts. On or about August 27, 2007, the Petitioner, Peter Simpson, an abutter, appealed the issuance of the amended Superseding Order of Conditions on the grounds that such order was not sufficiently protective of wetlands resource areas under the standards of the Wetlands Protection Act and associated regulations.

On October 16, 2007, the Applicant, Bob Jerrier, doing business as Jerrier Builders, delivered a written request to the Southeast Regional Office of the Department to withdraw the Department's approval of the Amended Superseding Order of Conditions in this matter. A copy of the Applicant's written request was filed with the Office of Appeals and Dispute Resolution on October 30, 2007, by counsel for the Department with a Motion to Dismiss this appeal as



moot pursuant to 310 CMR 1.01(11)(d)(1).<sup>1</sup> In view of the Applicant's request, this appeal is now moot. Under the rules governing this appeal at 310 CMR 1.01(11)(a)(1), the Petitioner had seven business days in which to file an objection or other response to the Department's Motion to Dismiss. Petitioner did not respond within the time required under the regulations.

Under the authority vested in Presiding Officers in 310 CMR 1.01(5)(a)(2) and 1.01(11)(d)(1), the Department's Motion to Dismiss this appeal is granted. The appeal should be dismissed as moot. The Amended Superseding Order of Conditions that was issued on August 21, 2007 is vacated, and the original request by the Applicant filed on or about August 3, 2007 requesting the amendment is deemed withdrawn. See, *Matter of Frank Donaldson, Trustee, Gardner Realty Trust*, DALA Docket No. DEP-06-343; DEP Docket No. 2006-041, 2006 MA ENV LEXIS 73 (Final Decision – Order of Dismissal, Rooney, J., November 13, 2006)

For the reasons set forth above, I recommend that the appeal be dismissed because it is moot.

### **NOTICE**

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for her Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party

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<sup>1</sup> Technically, the Applicant should request a withdrawal of its original filing, which was on or about August 3, 2007 according to the record in OADR. This filing initiated the request for an amendment to the existing Superseding Order of Conditions in place at the time. I will construe the request for withdrawal of approval of the Amended Superseding Order of Conditions as a request to withdraw Applicant's original request.

shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

**This final document copy is being provided to you electronically by the  
Department of Environmental Protection. A signed copy of this document  
is on file at the DEP office listed on the letterhead.**

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Laurel A. Mackay  
Presiding Officer